

SENATE BILL 509

By Kilby

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 9; Title 33; Title 56; Title 68 and Title 71, relative to providing affordable health insurance to businesses and individuals while controlling costs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "VolunteerCare Health Care Coverage Expansion Act of 2005".

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

71-5-148.

(a) The department may contract with one (1) or more health insurance carriers to purchase VolunteerCare Health Insurance for TennCare Medicaid or TennCare Standard members who seek to enroll through their employers pursuant to Title 71, chapter 5, part 1. A TennCare member who enrolls in a VolunteerCare Health Insurance plan as a member of an employer group receives full TennCare benefits through VolunteerCare Health Insurance. The benefits are delivered through the employer-based health plan, subject to nominal cost sharing as permitted by 42 United States Code, section 1396o(2003) and additional coverage provided under contract by the department.

(b) When a federally qualified health center otherwise meeting the requirements of subsection (a) contracts with a managed care plan or VolunteerCare Health Insurance for the provision of TennCare services, the department shall reimburse that center the difference between the payment received by the center from the managed care plan or VolunteerCare Health Insurance and one hundred percent (100%) of the reasonable

cost, reduced by the total copayments for which members are responsible, incurred in providing services within the scope of service approved by the federal Health Resources and Services Administration or the commissioner. Any such managed care contract must provide payments for the services of a center that are not less than the level and amount of payment that the managed care plan or VolunteerCare Health Insurance would make for services provided by an entity not defined as a federally qualified health center.

SECTION 3. Tennessee Code Annotated, Title 56, is amended by adding the following as a new Chapter 55:

CHAPTER 55

VOLUNTEERCARE HEALTH

56-55-101. This chapter shall be known and may be cited as "The VolunteerCare Health act."

56-55-102. VolunteerCare Health is established as an independent executive agency to arrange for the provision of comprehensive, affordable health care coverage to eligible small employers, including the self-employed, their employees and dependents. The exercise by VolunteerCare Health of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions.

56-55-103. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Board" means the board of directors of VolunteerCare Health, as established in section 56-55-104.

(2) "Child" means a natural child, stepchild, adopted child or child placed for adoption with a plan enrollee.

(3) "Dependent" means a spouse, an unmarried child under nineteen (19) years of age, a child who is a student under twenty-three (23) years of age and is financially dependent upon a plan enrollee or a person of any age who is the child of a plan enrollee and is disabled and dependent upon that plan enrollee.

(4) "Eligible business" means a business that employs at least two (2) but not more than fifty (50) eligible employees, the majority of whom are employed in the state, including a municipality that has fifty (50) or fewer employees. After one (1) year of operation of VolunteerCare Health, the board may, by rule, define "eligible business" to include larger public or private employers.

(5) "Eligible employee" means an employee of an eligible business who works at least twenty (20) hours per week for that eligible business. "Eligible employee" does not include an employee who works on a temporary or substitute basis or who does not work more than twenty-six (26) weeks annually.

(6) "Eligible individual" means:

(A) A self-employed individual who:

(i) Works and resides in the state; and

(ii) Is organized as a sole proprietorship or in any other legally recognized manner in which a self-employed individual may organize, a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income; or

(B) An individual employed in an eligible business that does not offer health insurance.

(7) "Employer" means the owner or responsible agent of a business authorized to sign contracts on behalf of the business.

(8) "Executive director" means the executive director of VolunteerCare Health.

(9) "Health insurance carrier" means:

(A) An insurance company licensed in accordance with title 56 to provide health insurance;

(B) A health maintenance organization licensed pursuant to title 56;

(C) A preferred provider arrangement administrator registered pursuant to title 56;

(D) A nonprofit hospital or medical service organization or health plan licensed pursuant to title 56; or

(E) An employee benefit excess insurance company licensed in accordance with title 56 to provide property and casualty insurance that provides employee benefit excess insurance.

(10) "Health plan in Medicaid" means a health insurance carrier that meets the requirements of 42 Code of Federal Regulations, Part 438 (2002) and has a contract with the bureau of TennCare to provide TennCare-covered services to individuals enrolled in TennCare.

(11) "Participating employer" means an eligible business that contracts with VolunteerCare Health pursuant to section 56-55-110(d)(2), and that has employees enrolled in VolunteerCare Health Insurance.

(12) "Plan enrollee" means an eligible individual or eligible employee who enrolls in VolunteerCare Health Insurance through VolunteerCare Health. "Plan enrollee" includes an eligible employee who is eligible to enroll in TennCare.

(13) "Provider" means any person, organization, corporation or association that provides health care services and products and is authorized to provide those services and products under the laws of this state.

(14) "Resident" has the same meaning as in section 71-5-103.

(15) "Subsidy" means a subsidy as described in section 56-55-112.

(16) "Third-party administrator" means any person who, on behalf of any person who establishes a health insurance plan covering residents, receives or collects charges, contributions or premiums for or settles claims on residents in connection with any type of health benefit provided in or as an alternative to insurance.

(17) "VolunteerCare Health Insurance" means the health insurance product established by VolunteerCare Health that is offered by a private health insurance carrier or carriers.

56-55-104.

(a) VolunteerCare Health, which operates under the supervision of a board of directors, is established in accordance with this section. The board consists of five (5) voting members and three (3) ex officio, nonvoting members, as follows:

(1) The five (5) voting members of the board shall be appointed by the governor, subject to review by the standing committees of the general assembly having jurisdiction over health insurance matters and confirmation by resolution or joint resolution of each house of the general assembly.

(2) The three (3) ex officio, nonvoting members of the board are:

(A) The commissioner of commerce and insurance or the commissioner's designee;

(B) A member of the staff of the governor designated by the governor; and

(C) The commissioner of finance and administration or the commissioner's designee.

(b) Voting members of the board:

(1) Must have knowledge of and experience in one (1) or more of the following areas:

- (A) Health care purchasing;
- (B) Health insurance;
- (C) TennCare;
- (D) Health policy and law;
- (E) State management and budget; or
- (F) Health care financing; and

(2) Except as provided in this subsection, may not be:

- (A) A representative or employee of an insurance carrier authorized to do business in this state;
- (B) A representative or employee of a health care provider operating in this state; or
- (C) Affiliated with a health or health-related organization regulated by state government.

A nonpracticing health care practitioner, retired or former health care administrator or retired or former employee of a health insurance carrier is not prohibited from being considered for board membership as long as that person is not currently affiliated with a health or health-related organization.

(c) Voting members serve three-year terms. Voting members may serve up to two (2) consecutive terms. Of the initial appointees, one (1) member shall serve an initial term of one (1) year, two (2) members shall serve initial terms of two (2) years and two (2) members shall serve initial terms of three (3) years. The governor shall fill any vacancy for an unexpired term in accordance with subsections (a) and (b). Members reaching the end of their terms may serve until replacements are named.

(d) The governor shall appoint one (1) of the voting members as the chair of the board.

(e) Three (3) voting members of the board constitute a quorum.

(f) An affirmative vote of three (3) members is required for any action taken by the board.

(g) A member of the board shall be compensated in the same manner as members of the general assembly pursuant to section 3-1-106; a member shall receive compensation whenever that member fulfills any board duties in accordance with board bylaws.

(h) The board shall meet at least four (4) times a year at regular intervals and may also meet at other times at the call of the chair or the executive director. All meetings of the board are public proceedings within the meaning of title 8, chapter 44. 56-55-105.

A member of the board or an employee of VolunteerCare Health is not subject to any personal liability for having acted within the course and scope of membership or employment to carry out any power or duty under this chapter. VolunteerCare Health shall indemnify any member of the board and any employee of VolunteerCare Health against expenses actually and necessarily incurred by that member or employee in connection with the defense of any action or proceeding in which that member or employee is made a party by reason of past or present authority with VolunteerCare Health.

56-55-106.

Board members and employees of VolunteerCare Health and their spouses and dependent children may not receive any direct personal benefit from the activities of VolunteerCare Health in assisting any private entity, except that they may participate in VolunteerCare Health Insurance on the same terms as others may under this chapter. This

section does not prohibit corporations or other entities with which board members are associated by reason of ownership or employment from participating in activities of VolunteerCare Health or receiving services offered by VolunteerCare Health as long as the ownership or employment is made known to the board and, if applicable, the board members abstain from voting on matters relating to that participation.

56-55-107.

(a) Except as otherwise provided in this section, information obtained by VolunteerCare Health under this chapter is a public record within the meaning of title 10, chapter 7, part 5.

(b) Any personally identifiable financial information, supporting data or tax return of any person obtained by VolunteerCare Health under this chapter is confidential and not open to public inspection.

(c) Health information obtained by VolunteerCare Health under this chapter that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, 110 Stat. 1936 or information otherwise covered as confidential by law is confidential and not open to public inspection.

56-55-108.

(a) Subject to any limitations contained in this chapter or in any other law, VolunteerCare Health may:

(1) Take any legal actions necessary or proper to recover or collect payments due VolunteerCare Health or that are necessary for the proper administration of VolunteerCare Health;

(2) Make and alter bylaws, not inconsistent with this chapter or with the laws of this state, for the administration and regulation of the activities of VolunteerCare Health;

(3) Have and exercise all powers necessary or convenient to effect the purposes for which VolunteerCare Health is organized or to further the activities in which VolunteerCare Health may lawfully be engaged, including the establishment of VolunteerCare Health Insurance;

(4) Engage in legislative liaison activities, including gathering information regarding legislation, analyzing the effect of legislation, communicating with legislators and attending and giving testimony at legislative sessions, public hearings or committee hearings;

(5) Take any legal actions necessary to avoid the payment of improper claims against VolunteerCare Health or the coverage provided by or through VolunteerCare Health, to recover any amounts erroneously or improperly paid by VolunteerCare Health, to recover any amounts paid by VolunteerCare Health as a result of mistake of fact or law and to recover other amounts due VolunteerCare Health;

(6) Enter into contracts with qualified third parties both private and public for any service necessary to carry out the purposes of this chapter;

(7) Conduct studies and analyses related to the provision of health care, health care costs and quality;

(8) Establish and administer a revolving loan fund to assist health care practitioners and health care providers in the purchase of hardware and software necessary to implement the requirements for electronic submission of claims. VolunteerCare Health may solicit matching contributions to the fund from each health insurance carrier licensed to do business in this state;

(9) Apply for and receive funds, grants or contracts from public and private sources; and

(10) In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one (1) or more organizations organized, created or operated under the laws of this state.

(b) VolunteerCare Health shall:

(1) Establish administrative and accounting procedures as recommended by the state comptroller for the operation of VolunteerCare Health;

(2) Determine the comprehensive services and benefits to be included in VolunteerCare Health Insurance and develop the specifications for VolunteerCare Health Insurance in accordance with the provisions in section 56-55-110. Within thirty (30) days of its determination of the benefit package to be offered through VolunteerCare Health Insurance, the board shall report on the benefit package, including the estimated premium and applicable coinsurance, deductibles, copayments and out-of-pocket maximums, to the house and senate finance committees, the house commerce committee, the senate commerce, labor and agriculture committee, and the senate general welfare and house health and human resources committee;

(4) Develop and implement a program to publicize the existence of VolunteerCare Health and VolunteerCare Health Insurance and the eligibility requirements and the enrollment procedures for VolunteerCare Health Insurance and to maintain public awareness of VolunteerCare Health and VolunteerCare Health Insurance;

(5) Arrange the provision of VolunteerCare Health Insurance benefit coverage to eligible individuals and eligible employees through contracts with one (1) or more qualified bidders; and

(6) Develop a high-risk pool for plan enrollees in VolunteerCare Health Insurance in accordance with the provisions of section 56-55-201.

(c) The revenues and expenditures of VolunteerCare Health are subject to legislative approval in the budget process. At the direction of the board, the executive director shall prepare the budget for the administration and operation of VolunteerCare Health in accordance with the provisions of law that apply to departments of state government.

(d) VolunteerCare Health must be audited annually by the state comptroller. The board may, in its discretion, arrange for an independent audit to be conducted. A copy of the audit must be provided to the state treasurer, to the commissioner, to the standing committees of the general assembly having jurisdiction over appropriations and financial affairs, to the standing committees of the general assembly having jurisdiction over insurance and financial services matters and to the standing committees of the general assembly having jurisdiction over health and human services matters.

(e) VolunteerCare Health may promulgate rules necessary for the proper administration and enforcement of this chapter, pursuant to title 4, chapter 5.

(f) Beginning September 1, 2006, and annually thereafter, the board shall report on the impact of VolunteerCare Health on the small group and individual health insurance markets in this state and any reduction in the number of uninsured individuals in the state. The board shall also report on membership in VolunteerCare Health, the administrative expenses of VolunteerCare Health, the extent of coverage, the effect on premiums, the number of covered lives, the number of VolunteerCare Health Insurance policies issued or renewed and VolunteerCare Health Insurance premiums earned and claims incurred by health insurance carriers offering VolunteerCare Health Insurance. The board shall submit the report to the governor, the standing committees of the

general assembly having jurisdiction over appropriations and financial affairs, the standing committees of the general assembly having jurisdiction over health insurance and financial services matters and the standing committees of the general assembly having jurisdiction over health and human services matters.

(g) Other state agencies, including, but not limited to, the bureau of TennCare, the department of human services and the department of revenue, shall provide technical assistance and expertise to VolunteerCare Health upon request.

(h) The attorney general and reporter, when requested, shall furnish any legal assistance, counsel or advice VolunteerCare Health requires in the discharge of its duties.

(i) VolunteerCare Health shall institute a system to coordinate the activities of VolunteerCare Health with the health care programs of the federal government and state and municipal governments.

(j) Upon request from the board, the governor shall provide staffing assistance to VolunteerCare Health in the initial phases of its operation.

(k) VolunteerCare Health may appoint advisory committees to advise and assist VolunteerCare Health. Members of an advisory committee shall serve without compensation but may be reimbursed by VolunteerCare Health for necessary expenses while on official business of the advisory committee.

56-55-109.

(a) The executive director shall be appointed by the board and shall serve at the pleasure of the board.

(b) The executive director shall:

(1) Serve as the liaison between the board of directors and VolunteerCare Health and serve as secretary and treasurer to the board;

(2) Manage VolunteerCare Health's programs and services;

(3) Employ or contract on behalf of VolunteerCare Health for professional and nonprofessional personnel or service. Employees of VolunteerCare Health are subject to the provisions of title 8, chapter 30;

(4) Approve all accounts for salaries, per diems, allowable expenses of VolunteerCare Health or of any employee or consultant and expenses incidental to the operation of VolunteerCare Health; and

(5) Perform other duties prescribed by the board to carry out the functions of this chapter.

56-55-110.

(a) VolunteerCare Health shall arrange for the provision of health benefits coverage through VolunteerCare Health Insurance not later than October 1, 2005. VolunteerCare Health Insurance must comply with all relevant requirements of this title. VolunteerCare Health Insurance may be offered by health insurance carriers that apply to the board and meet qualifications described in this section and any additional qualifications set by the board.

(b) If health insurance carriers do not apply to offer and deliver VolunteerCare Health Insurance, the board may have VolunteerCare Health provide access to health insurance by proposing the establishment of a nonprofit health care plan or by proposing the expansion of an existing public plan. If the board proposes the establishment of a nonprofit health care plan or the expansion of an existing public plan, the board shall submit its proposal, including, but not limited to, a funding mechanism to capitalize a nonprofit health care plan and any recommended legislation to the standing committees of the general assembly having jurisdiction over health insurance matters.

VolunteerCare Health may not provide access to health insurance by establishing a

nonprofit health care plan or through an existing public plan without specific legislative approval.

(c) To qualify as a carrier of VolunteerCare Health Insurance, a health insurance carrier must:

(1) Provide comprehensive health services and benefits as determined by the board, including a standard benefit package that meets the requirements for mandated coverage for specific health services, specific diseases and for certain providers of health services under this title and any supplemental benefits the board wishes to make available; and

(2) Ensure that:

(A) Providers contracting with a carrier contracted to provide coverage to plan enrollees do not charge plan enrollees or third parties for covered health care services in excess of the amount allowed by the carrier the provider has contracted with, except for applicable copayments, deductibles or coinsurance;

(B) Providers contracting with a carrier contracted to provide coverage to plan enrollees do not refuse to provide services to a plan enrollee on the basis of health status, medical condition, previous insurance status, race, color, creed, age, national origin, citizenship status, gender, disability or marital status. This subdivision shall not be construed to require a provider to furnish medical services that are not within the scope of that provider's license; and

(C) Providers contracting with a carrier contracted to provide coverage to plan enrollees are reimbursed at the negotiated reimbursement rates between the carrier and its provider network.

(d) VolunteerCare Health has contracting authority and powers to administer VolunteerCare Health Insurance as set out in this subsection.

(1) VolunteerCare Health may contract with health insurance carriers licensed to sell health insurance in this state or other private or public third-party administrators to provide VolunteerCare Health Insurance. In addition:

(A) VolunteerCare Health shall issue requests for proposals from health insurance carriers;

(B) VolunteerCare Health may include quality improvement, disease prevention, disease management and cost-containment provisions in the contracts with participating health insurance carriers or may arrange for the provision of such services through contracts with other entities;

(C) VolunteerCare Health shall require participating health insurance carriers to offer a benefit plan identical to VolunteerCare Health Insurance, for which no VolunteerCare Health subsidies are available, in the general small group market;

(D) VolunteerCare Health shall make payments to participating health insurance carriers under a VolunteerCare Health Insurance contract to provide VolunteerCare Health Insurance benefits to plan enrollees not enrolled in TennCare;

(E) VolunteerCare Health may set allowable rates for administration and underwriting gains for VolunteerCare Health Insurance;

(F) VolunteerCare Health may administer continuation benefits for eligible individuals from employers with twenty (20) or more employees

who have purchased health insurance coverage through VolunteerCare Health for the duration of their eligibility periods for continuation benefits pursuant to the federal Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, Title X, Private Health Insurance Coverage, Sections 10001 to 10003; and

(G) VolunteerCare Health may administer or contract to administer the United States Internal Revenue Code of 1986, Section 125 plans for employers and employees participating in VolunteerCare Health, including medical expense reimbursement accounts and dependent care reimbursement accounts.

(2) VolunteerCare Health shall contract with eligible businesses seeking assistance from VolunteerCare Health in arranging for health benefits coverage by VolunteerCare Health Insurance for their employees and dependents as set out in this subdivision.

(A) VolunteerCare Health may establish contract and other reporting forms and procedures necessary for the efficient administration of contracts.

(B) VolunteerCare Health shall collect payments from participating employers and plan enrollees to cover the cost of:

(i) VolunteerCare Health Insurance for enrolled employees and dependents in contribution amounts determined by the board;

(ii) VolunteerCare Health's quality assurance, disease prevention, disease management and cost-containment programs;

(iii) VolunteerCare Health's administrative services; and

(iv) Other health promotion costs.

(C) VolunteerCare Health shall establish the minimum required contribution levels, not to exceed sixty percent (60%), to be paid by employers toward the aggregate payment in subitem (2) of this subdivision and establish an equivalent minimum amount to be paid by employers or plan enrollees and their dependents who are enrolled in TennCare. The minimum required contribution level to be paid by employers must be prorated for employees that work less than the number of hours of a full-time equivalent employee as determined by the employer. VolunteerCare Health may establish a separate minimum contribution level to be paid by employers toward coverage for dependents of the employers' enrolled employees.

(D) VolunteerCare Health shall require participating employers to certify that at least seventy-five percent (75%) of their employees who work thirty (30) hours or more per week and who do not have other creditable coverage are enrolled in VolunteerCare Health Insurance and that the employer group otherwise meets the minimum participation requirements specified by law.

(E) VolunteerCare Health shall reduce the payment amounts for plan enrollees eligible for a subsidy under section 56-55-112 accordingly. VolunteerCare Health shall return any payments made by plan enrollees also enrolled in TennCare Medicaid and TennCare Standard to those enrollees.

(F) VolunteerCare Health shall require participating employers to pass on any subsidy in section 56-55-112 to the plan enrollee qualifying for the subsidy, up to the amount of payments made by the plan enrollee.

(G) VolunteerCare Health may establish other criteria for participation.

(H) VolunteerCare Health may limit the number of participating employers.

(3) VolunteerCare Health may permit eligible individuals to purchase VolunteerCare Health Insurance for themselves and their dependents as set out in this subdivision.

(A) VolunteerCare Health may establish contract and other reporting forms and procedures necessary for the efficient administration of contracts.

(B) VolunteerCare Health may collect payments from eligible individuals participating in VolunteerCare Health Insurance to cover the cost of:

(i) Enrollment in VolunteerCare Health Insurance for eligible individuals and dependents;

(ii) VolunteerCare Health's quality assurance, disease prevention, disease management and cost-containment programs;

(iii) VolunteerCare Health's administrative services; and

(iv) Other health promotion costs.

(C) VolunteerCare Health shall reduce the payment amounts for individuals eligible for a subsidy under section 56-55-112 accordingly.

(D) VolunteerCare Health may require that eligible individuals certify that all their dependents are enrolled in VolunteerCare Health Insurance or are covered by another creditable plan.

(E) VolunteerCare Health may limit the number of plan enrollees.

(F) VolunteerCare Health may establish other criteria for participation.

(e) VolunteerCare Health shall perform, at a minimum, the following functions to facilitate enrollment in VolunteerCare Health Insurance:

(1) VolunteerCare Health shall publicize the availability of VolunteerCare Health Insurance to businesses, self-employed individuals and others eligible to enroll in VolunteerCare Health Insurance.

(2) VolunteerCare Health shall screen all eligible individuals and employees for eligibility for subsidies under section 56-55-112 and eligibility for TennCare Medicaid and TennCare Standard.

(3) Except as provided in this subdivision, the effective date of coverage for a new enrollee in VolunteerCare Health Insurance is the first day of the month following receipt of the fully completed application for that enrollee by the carrier contracting with VolunteerCare Health or the first day of the next month if the fully completed application is received by the carrier within ten (10) calendar days of the end of the month. If a new enrollee in VolunteerCare Health Insurance had prior coverage through an individual or small group policy, coverage under VolunteerCare Health Insurance must take effect the day following termination of that enrollee's prior coverage.

(f) VolunteerCare Health shall promote quality improvement, disease prevention, disease management and cost-containment programs as part of its administration of VolunteerCare Health Insurance.

56-55-111.

The department of finance and administration is the state agency responsible for the financing and administration of TennCare. It shall pay for TennCare benefits for TennCare-

eligible individuals, including those enrolled in health plans in TennCare that are providing coverage under VolunteerCare Health Insurance.

56-55-112.

(a)

(1) VolunteerCare Health may establish sliding-scale subsidies for the purchase of VolunteerCare Health Insurance paid by individuals or employees whose income is under three hundred percent (300%) of the federal poverty level and who are not otherwise eligible for TennCare. VolunteerCare Health may also establish sliding-scale subsidies for the purchase of employer-sponsored health coverage paid by employees of businesses with more than fifty (50) employees, whose income is under three hundred percent (300%) of the federal poverty level and who are not eligible for TennCare.

(2) VolunteerCare Health shall, by rule, establish procedures to administer this section.

(b) Individuals eligible for a subsidy must:

(1) Have an income under three hundred percent (300%) of the federal poverty level, be a resident of the state, be otherwise ineligible for TennCare coverage and be enrolled in VolunteerCare Health Insurance; or

(2) Be enrolled in a health plan of an employer with more than fifty (50) employees. The health plan must meet any criteria established by VolunteerCare Health. The individual must meet other eligibility criteria established by VolunteerCare Health.

(c) VolunteerCare Health shall limit the availability of subsidies to reflect limitations of available funds.

(d) VolunteerCare Health may limit the amount subsidized of the payment made by individual plan enrollees under section 56-55-110(d) to forty percent (40%) of the payment to more closely parallel the subsidy received by employees. In no case may the subsidy granted to eligible individuals in accordance with subdivision (b)(1), exceed the maximum subsidy level available to other eligible individuals.

(e) VolunteerCare Health shall notify applicants and their employers in writing of their eligibility and approved level of subsidy.

(f) Within thirty (30) days after any subsidies are established pursuant to this section, the board shall report on the amount of the subsidies, the funding required for the subsidies and the estimated number of VolunteerCare Health enrollees eligible for the subsidies and submit the report to the standing committees of the general assembly having jurisdiction over appropriations and financial affairs, the standing committees of the general assembly having jurisdiction over insurance and financial services matters and the standing committees of the general assembly having jurisdiction over health and human services matters.

56-55-113.

(a) The funds necessary to provide subsidies pursuant to section 56-55-112 shall be limited to medical assistance funds under a federal waiver obtained pursuant to title 71, chapter 5, part 1, for which federal financial participation is available.

(b) The following reports are required in accordance with this subsection.

(1) On a quarterly basis beginning with the first quarter after VolunteerCare Health Insurance begins offering coverage, the board shall collect and report on the following:

(A) The total enrollment in VolunteerCare Health Insurance, including the number of enrollees previously underinsured or uninsured, the number of enrollees previously insured, the number of individual enrollees and the number of enrollees enrolled through small employers;

(B) The total number of enrollees covered in health plans through large employers and self-insured employers;

(C) The number of employers, both small employers and large employers, who have ceased offering health insurance or contributing to the cost of health insurance for employees or who have begun offering coverage on a self-insured basis;

(D) The number of employers, both small employers and large employers, who have begun to offer health insurance or contribute to the cost of health insurance premiums for their employees;

(E) The number of new participating employers in VolunteerCare Health Insurance;

(F) The number of employers ceasing to offer coverage through VolunteerCare Health Insurance;

(G) The duration of employers participating in VolunteerCare Health Insurance; and

(H) A comparison of actual enrollees in VolunteerCare Health Insurance to the projected enrollees.

(2) The quarterly reports required to be submitted by the board pursuant to subdivision (1) must be submitted to the commissioner, to the standing committees of the general assembly having jurisdiction over appropriations and financial affairs, to the standing committees of the general assembly having

jurisdiction over insurance and financial services matters, and to the standing committees of the general assembly having jurisdiction over health and human services matters.

(c) The claims experience used to determine any filed premiums or rating formula must reasonably reflect, in accordance with accepted actuarial standards, known changes and offsets in payments by the carrier to health care providers in this state, including any reduction or avoidance of bad debt and charity care costs to health care providers in this state as a result of the operation of VolunteerCare Health and any increased enrollment due to an expansion in TennCare eligibility occurring after June 30, 2005.

56-55-114.

Starting July 1, 2006, VolunteerCare Health shall transfer funds, as necessary, to a special dedicated, nonlapsing revenue account administered by the agency of state government that administers TennCare for the purpose of providing a state match for federal Medicaid dollars. VolunteerCare Health shall annually set the amount of contribution.

56-55-115.

The VolunteerCare Health Fund is created as a general fund reserve, to be allocated by the general appropriations act, for the deposit of any funds advanced for initial operating expenses, payments made by employers and individuals, and any funds received from any public or private source. Monies from the fund shall be expended to carry out the purposes of this chapter. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this chapter and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years.

PART 2

VOLUNTEERCARE HEALTH HIGH-RISK POOL

56-55-201.

(a) VolunteerCare Health may establish the VolunteerCare Health High-risk Pool, referred to in this section as "the high-risk pool" for plan enrollees in accordance with this section.

(b) A plan enrollee may be included in the high-risk pool if:

(1) The total cost of health care services for the enrollee exceeds one hundred thousand dollars (\$100,000) in any twelve (12)-month period; or

(2) The enrollee has been diagnosed with one (1) or more of the following conditions: acquired immune deficiency syndrome (HIV/AIDS), angina pectoris, cirrhosis of the liver, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, heart disease requiring open-heart surgery, Parkinson's disease, polycystic kidney disease, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease.

(c) If a high-risk pool is established pursuant to subsection (a), VolunteerCare Health shall develop appropriate disease management protocols, develop procedures for implementing those protocols and determine the manner in which disease management must be provided to plan enrollees in the high-risk pool. VolunteerCare Health may include disease management in its contract with participating carriers for VolunteerCare Health Insurance pursuant to section 56-55-110, contract separately with another entity for disease management services or provide disease management services directly through VolunteerCare Health.

(d) VolunteerCare Health shall submit a report, outlining the disease management protocols, procedures and delivery mechanisms used to provide services to plan enrollees. The report must also include the number of plan enrollees in the high-risk pool, the types of diagnoses managed within the high-risk pool, the claims experience within the high-risk pool and the number and type of claims exceeding one hundred thousand dollars (\$100,000) for enrollees in the high-risk pool and for all enrollees in VolunteerCare Health Insurance. The report must be submitted to the standing committees of the general assembly having jurisdiction over health insurance matters.

(e) After three (3) years of operation, VolunteerCare Health shall evaluate the impact of VolunteerCare Health on average premium rates in this state and on the rate of uninsured individuals in this state and compare the trends in those rates to the trends in the average premium rates and average rates of uninsured individuals for the states that have established a statewide high-risk pool. The board shall submit the evaluation of the impact of VolunteerCare Health in this state in comparison to states with high-risk pools to the standing committees of the general assembly having jurisdiction over health insurance matters. If the trend in average premium rates in this state and rate of uninsured individuals exceed the trend for the average among the states with high-risk pools, the board shall submit legislation to the general assembly that proposes to establish a statewide high-risk pool in this state consistent with the characteristics of high-risk pools operating in other states.

SECTION 4. The commissioner of finance and administration is directed to obtain any necessary waivers, waiver modifications or other approvals necessary from the federal department of health and human services in order to implement the VolunteerCare program in association with the TennCare program or its successor programs. If the necessary approvals

cannot be obtained, then Section 1 of this act shall not take effect and the remaining provisions of this act shall take effect only to the extent the commissioner determines that such provisions may be implemented without the necessary approvals from the federal government.

SECTION 5. Tennessee Code Annotated, Section 4-29-228(a), is amended by adding the following as new item:

() Board of directors of VolunteerCare Health, created by § 56-55-101;

SECTION 6. The commissioner of finance and administration is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 7. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect July 1, 2005, the public welfare requiring it.